

REMARKS

Applicant appreciates the Examiner's thorough examination of the present application. Applicant has amended claims 1, 6, 7, 15- 19 herein.

Applicant respectfully asserts that the claims are allowable herein over the rejections under 35 U.S.C. §102. Applicant respectfully requests favorable reconsideration of the claims based on the amendments and remarks set forth herein.

Rejections Under 35 U.S.C. §102 (b)

Claims 1-20 under 35 U.S.C. §102 as being anticipated by Steiner and separately by Bailleux. Applicant respectfully asserts that the claims, as amended herein, and claims depending therefrom overcome and are allowable over the rejection. Claims 1, 6, 7, 15- 19 have been amended to further distinguish the invention from the Steiner reference and, separately, the Bailleux reference.

With regard to the rejection under 35 U.S.C. §102, it is well settled, anticipation requires "identity of invention." *Glaverbel Societe Anonyme v. Northlake Manufacture Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a particular prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); Lindemann Maschinenfabrik GMBH, see *American Hoist and Derrick Company*, 221 USPQ481, 485 (Fed. Cir. 1984). Furthermore, in a rejection under 35 U.S.C. §102 (b) there must be no difference between what is claimed and what is disclosed in the applied reference. *In re Kalm*, 154 USPQ10, 12 (CCPA 1967); *Scripps v. Genentech Inc.*, 18 USPQ2d 1001,1010 (Fed. Cir. 1991).

The Steiner reference shows a server in which a heater (41) is provided in a corner exterior to and unattached from the reservoir. The reservoir (21) includes internal and external layers (22, 23) which are not attached to the heater.

The Steiner reference shows a system in which the heater is provided external to the container and its insulation to reduce the rate of heat transfer from the reservoir.

In contrast, the claimed invention calls for a heater attached to the outside surface of the bottom of the reservoir. In this manner, heat can be controllably added to the reservoir. By placing the heater on the bottom of the reservoir heat can radiate upwardly through the reservoir for controlled responsive heating.

Similarly, in contrast to the claimed invention, Bailleux shows a brewing device commonly referred to as a “burp and boil” device. In this regard, a heating element is connected to an outlet line from the reservoir. The heater is not attached to the bottom outside service of the reservoir. Rather, the heater is attached to the conduit. As water is heated it is moved upwardly through the conduit to the infusion filter of the device.

Once again the heating element in Bailleux is not attached to the outside bottom surface of the reservoir. To do so would be counter productive to the operation of the burp and boil brewer.

The heating coil might provide heat to a warmer plate (4) but the plate is not carried in the server as set forth in the claims. In other words, the heating element of the present invention is carried with the server and travels with the server when moved. In contrast, the heating element of the Bailleux reference is merely a traditional warmer plate which does not travel with the server when it is moved.

With the foregoing in mind, the amended claims and the claims depending therefrom overcome and are allowable over the rejection under 35 U.S.C. §102. The Steiner reference fails to provide each and every element of the amended claims as set forth herein. Steiner does not include a heater carried in the server which is attached to the bottom outside surface of the reservoir. Similarly, the Bailleux reference does not include a heating element which is carried in the server and attached to the outside bottom surface of the reservoir. As such, there are significant differences between what is claimed and what is disclosed in the Steiner, and Bailleux references, respectively.

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U.S. Application No. 10/624,284

With the foregoing in mind, Applicant respectfully requests the Examiner withdraw the rejections under 35 U.S.C. §102 and allow the amended claims.

If there is any issue remaining to be resolved, the Examiner is invited to telephone the undersigned so that resolution can be promptly affected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 12-0913 (27726-93386).

Respectfully submitted,

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